IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Arbitration Application No.250 of 2004

Fiat India Pvt Limited.....Applicant
vs
Kamal Virdichandji Garg....Respondent

Mr. P.A.Kabadi i/b Doijode Phatarphekar for applicant
None for respondent.

CORAM: V.G PALSHIKAR Acg C.J.

Dated 25.ll.2005

P.C:

l. By this application the applicant Fiat India Pvt Limited prays for appointment of an Arbitrator under section ll(4) of the Arbitration and Conciliation Act, l996.

2. The facts giving rise to the filing of this application stated briefly are that on l0.2.2004 a panel of Arbitrators came to be appointed by an order of the court. One of the Arbitrators so appointed was Shri Mahesh Gupta, Chartered Accountant,who on l8.6.2004 resigned as Arbitrator and, therefore, the applicant called upon the respondent to appoint Arbitrator by its letter dated 8.7.2004. A reminder was also sent on 23.7.2004 and again they were called upon to make appointment on 3l.8.2004. The period contemplated

by section ll(4) having thus expired without appointment, this application is filed. Notice of this application has been duly served on the respondent.An affidavit of service is also filed. Inspite of such notice none appears.

3. The statement of the applicant that the situation contemplated by section ll(4)(a) has occurred, is thus unrefuted statement. In view of that the statement is liable to be accepted and is therefore accepted.

4. It is obvious that the respondent has failed to appoint an Arbitrator within 30 days from the receipt of the request i.e. 8.7.2004 and,therefore the request of the applicant company is liable to accepted. I accordingly appoint Justice A.C.Agarwal, former Chief Justice of Madras High Court. Office to give intimation to the Arbitrator so appointed.

. Application is thus disposed of.